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O N
MODERN MARTYRS:
WITH A
L E T T E R
T O
GENERAL BURGoyNE.

"SUPERAT, ET CRESCIT MALIS
ARAQUE NOSTRA FRUITUR."

SENECA, *In Hercule Furiente.*

L O N D O N :

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MODERN MARTYRS.

IN the annals both of religious and political controversy, it has long been a remark, that the sufferings of martyrdom have gained more converts, than the terror of authority, or the persuasion of eloquence. Every passion was armed against those who invaded the freedom, who fettered the conscience of man; every sentiment applauded the sincerity of him who braved dangers, misfortunes, and death, in support of the tenets he had adopted, or the party he had espoused.

The constancy of religious martyrs was, indeed, founded in hopes extending far beyond the limits of our present existence; in hopes which neither were blended with the desire of immediate praise, nor anticipated the honours of posthumous celebrity. Yet even these sublunary motives have been found sufficient to kindle, and keep alive the flame of political enthusiasm, and

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the patriots of former times resisted the temptations of interest, or despised the menaces of power ; often without other incitement than the love of well earned fame, without other allurements than the pleasure of self approbation.

Such were the simple motives, such the limited views of those, by whose enterprizes, or whose sufferings the constitution of this kingdom has been established, defended and improved. If it was a reproach on some, that, warped by ambition, they connected their private aggrandizement with the pursuit of public utility ; if it be justly observed of others, that, in the warmth of incautious zeal, they advanced doctrines subversive in the end of that freedom, which they had laboured to support ; yet it seems never to have been doubted, whether they were serious in the chief object of their pursuit ; whether the dangers, to which they were exposed, were real, and the misfortunes, which they underwent, afflicting.

To the ingenuity of modern times, ever busy in researches and fertile in improvement, it has been left to discover a new system of martyrdom ; a system, into which neither wheels, nor flames, nor axes, are permitted to enter ; but
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in which triumph results from punishment, and advantage springs from calamity; by which the insignificant may rise to importance, and the indigent to affluence, by the efficacy of mock misfortunes, and the emolument of lucrative heroism.

It cannot, however, be denied, that the modern candidates for martyrdom, have in the leading principle of their conduct, complied with the maxims of philosophy, and, in some sense, obeyed even the dictates of religion; for we shall find their plan to be founded, in a just estimation of the good and evil of life: we shall find them often sacrificing the present to the future, and submitting to a temporary, and at least to an apparent inconvenience, from the almost certain prospect of substantial reward.

Amongst the devices by which public attention may be excited, and public compassion awakened towards those, whom neither genius, nor industry, nor virtue would have forced into distinction, the most frequent, and perhaps the most successful, is the art of connecting illegal transgressions with popular pursuits, and rendering the administration of justice odious, by complaint and clamour, against that correction
which

which has been deservedly, nay often designedly, incurred.

There are a species of offenders in this country who claim merit from the avowal of deliberate malignity; whose public virtue is distinguished only by an opposition to public justice, and whose policy consists in taking advantage of that disposition in some minds, that considers all government as an oppression, that feels all subordination as a misery. Such a disposition, inflamed by popular clamour, and directed to the purposes of faction, has often counteracted the ends of justice, by converting it's sentence into a reward; and the desperate rioter, the malicious libeller, or the treasonable disserter of sedition, have been enabled to revel in the dainties of a luxurious imprisonment, or thrive on the revenue of a profitable pillory.

There is another source of advantage to this first and lowest species of martyrs, in the topics of eloquence they often furnish, and the popularity they sometimes procure to parties adverse to government. They may be considered as lesser instruments, as subordinate wheels in the great and complicated machine of opposition. The duties and services required by the system of party,

party, are so various, and even opposite in their nature, as to demand abilities of every degree, and characters of every denomination. There are some invectives too indecent, some accusations too malevolent, and some falsehoods too shameless, to be propagated or avowed by any, but the lowest drudges of faction. The architect, however accurate his judgment, however elegant his taste, must be indebted for the execution of his plans to the humble labours of meaner artificers ; and since the mighty fabricators of sedition cannot themselves accomplish every mischief they project, they must on some occasions purchase the assistance of hirelings, to whom treason is a practical trade, and scurrility a daily occupation.

To illustrate this theory by examples, may seem almost superfluous, in an age so fertile in candidates for martyrdom. The common council-man of almost every ward, and the printer of almost every newspaper, feeds on the hope, or enjoys the recollection of authority insulted, or justice provoked ; speculates on the profit of sufferings, and pants for the celebrity of persecution.—Persecution, the ever successful pretence by which contending factions have alternately triumphed : by which, in the days of

Sacheverel,

Sacbeverel, a popular administration was rendered odious, a distinguished conqueror disgraced, and a national confederacy dissolved: by which the more celebrated adventurer of our own times has been enabled, through a progressive course of beneficial punishments, to attain the highest objects of modern martyrdom; to derive safety and subsistence from exile, the enjoyment of luxuries and the discharge of debts from imprisonment, and the firm possession of parliamentary honours from expulsion; and at length (when the bubble of patriotism was almost broken) to secure the more essential reward of an affluent income; and thus to crown our admiration of wit, that almost reconciles us to fraud, of ingenuity that almost atones for imposture,

A second species of martyrdom, more hazardous indeed, but often productive of greater emolument than the former, consists in the noble and *disinterested* act of relinquishing some present advantage, in the supposed certain prospect of more exalted power, or more ample profit. Such a system is, indeed, from its nature, confined to the higher order of sufferers, and such as may be emphatically styled the *political*, as those before described, may be rather termed the *penal* martyrs. To sacrifice the possession

session of a lucrative employment, wears at the first glance so strong an appearance of sincerity, that we almost overlook the folly of unsteadiness, and forget the treachery of desertion. Yet on a nearer view of circumstances and characters, we shall not consider the political martyr, merely as a convert to false popularity, but rather as a refined (though often disappointed) speculatist, who weighs the chances of events, and calculates the fluctuations of power with an almost arithmetical nicety.

This examination will serve as a clue, by which many of the most intricate mazes in political conduct may be easily unravelled. Timidity alone, for instance, might be deemed a sufficient cause, when an unpopular minister abruptly deserts his associates, and shrinks on the first alarm of a decreasing influence. But should we observe the same minister, after a temporary shelter from the storm, and when its violence is past, return to an elevated, though a less responsible office, it will then become apparent, that a wise regard for the main chance of life, almost equally balances the fond attention to personal security. Should we see in process of time, the same minister, on the first appearance of ill success, veer with

with the gale of fortune, court and combine with his old and inveterate enemies, condemn the measures he had suggested, and vilify the persons with whom he had acted, accuse with more than factious rancour, and threaten with worse than patriotic scurrility, we shall then admit that nothing can be wanting to the completion of such a character; we shall then look back with wonder at the steps by which he has reached a summit of political infamy, unknown before; and the mind of an honest spectator, shocked by the example of perfidy, shamed by the outrage on decency, will find no other quiet than in reconciling indignation with contempt.

An instance so eminent and so notorious, will be sufficient to characterize and exemplify this second class of martyrs; nor is the charitable and forgiving temper of those, who so cordially cherish the repentant sinner, a less worthy subject of admiration. It has often been absurdly imagined, that political resentment ought, in some respects, to differ from personal enmity; and that the latter, on adequate atonement and due reparation, ought entirely to cease; but that the former, when founded in public and patriotic motives, should at least prevent an intimate union with one whom we have loudly declared

declared the enemy of his country. To vulgar minds it is not an easy supposition, that an oppressive and corrupt minister can (without a miracle) be metamorphosed into a true patriot, and that the persecutor should instantly and unaccountably become a profelyte; yet so mighty are the effects, so wonderful the consequences of political conversion, that it shall easily extinguish offences, for which impeachment was once deemed too mild a prosecution; the criminal shall be adopted by his accusers, as a worthy associate, as a glorious leader of party: and who shall dare suppose their former enmity malevolent and unjust, or impute their recent friendship to motives of interest and faction?

The third species of martyrs would be deemed too ludicrous to deserve serious notice, did not the support they receive originate in a very dangerous, as well as curious system of modern policy. These are the self-created martyrs, the self-proclaimed victims, who court the public favour, or pacify the public resentment, not only by voluntary but even by visionary sufferings. In the front of this venerable band appear the *military martyrs*, armed with recriminating invectives, shielded by new-formed connections, stored with voluminous

harangues, arrayed in all the pomp of burlesque
 inquiries, and adorned with all the trophies of
 partial approbation. In vain would common sense
 oppose her strength against the power of mili-
 tary eloquence ; in vain might she represent,
 that true valour would require no aid from the
 refinements of sophistry, that real exploits would
 borrow no ornament from the pomp of decla-
 mation ; that the commanders of former days
 established the glory, and extended the empire
 of their country, not by tedious recitals, but
 by actual and effectual enterprizes ; that the
 proofs of meritorious service did not then rest
 upon the opinion of friendly witnesses, but on
 the records of impartial history, on the grate-
 ful applause of their countrymen, on the uni-
 versal sense of mankind.—Vain, indeed, would
 be such arguments with those, who deem it
 their interest to conjure up ideal accusers, to
 complain of fancied oppressions, and to repre-
 sent as mere insinuations of a ministry, that
 general dissatisfaction which their own conduct
 has inspired throughout the kingdom.

Yet, perhaps, the result of these inquiries
 (though pursued almost wholly on one side) has
 wrought little change in the sentiments of men,
 unconnected with the views, and unbiassed by
 the

the motives of party. It has not yet appeared to them, utterly impossible to gain conquests with brave and numerous troops, to oppose disorder by discipline, or to pursue an enemy whose only hope of safety is in retreat. Procrastination and delay are not yet deemed absolutely necessary to the success of martial enterprize, nor indolence and voluptuousness the only qualifications of an able general. Neither, on the contrary, are we yet positively certain, that honour and advantage can be acquired by no other means, than plunging headlong into defeat, disgrace, and captivity. The obstinate adherents to ancient prejudice would still rejoice at some instance of ardour obedient to the direction of judgment, and caution invigorated by the alacrity of zeal.* In their weak apprehensions, though failure might often be pitied, and error sometimes atoned, yet beneficial conquests and distinguished success could alone warrant the claim to applause and admiration.

And indeed there is some plausibility in this mode of reasoning : nor will it be very easy to find an instance, in which it's truth has been called in question from the days of Cressy to Minden.

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* It may be unnecessary to say, that this sentence was written before the account of General Prevost's success in Georgia had been received.

The fact is, the principles of fame are nearly inverted by the ingenuity of modern times. The celebrity of military martyrs commences from their failures: there is a gradual and equal progress in their losses, and their praise; and their private ambition is elevated, in proportion as the public interest declines.—Thus, the not improving an easy victory, (such, for instance, as at Long Island and Ticonderoga) is no slight omen of their rising merit—an injudicious and hazardous detachment, ill supported, (as at Trenton and Bennington) wonderfully enhances the credit of their discretion—not taking measures to check an increasing and approaching enemy, (such as at Quibbletown or Stilwater) really begins to give an auspicious presage of the event—but if one candidate for military martyrdom has the wisdom, unnecessarily to sacrifice a part of his army, (as at Redbank) in the injudicious attack of a post, which he never should have suffered to be established, and which by another method might have then been taken, (as afterwards it was) with very inconsiderable loss; then indeed may he exult in the security of immortal fame; then indeed may he claim applause, inferior only to the honours of that General, who, by the surrender and ruin, of his army, may congratulate himself on the peculiar

culiar lot of having strengthened domestic revolt, by the accession of foreign hostility.

The object of military pursuit, being thus totally changed in it's nature, the operations of war must of course be conducted on a correspondent system — That sagacious dread of success, manifested by a great General of antiquity, in deliberating upon the probable consequences of a second battle, may, with more literal precision, be applied to a *modern* hero, even before he has hazarded the first. "*A victory in his circumstances would be ruin.*" — For having duly revolved the fortune of war, and estimated the advantages of failure, compared with those of success, he very consistently prefers the losing as the surest game. Thus, like one species of adventurers in a lottery, the modern General insures on the *blanks* of war; and what, to vulgar apprehensions, might appear destructive to his hopes, in secret secures a profit far beyond the ordinary prizes of good fortune, or the usual attainments of victory.

Neither does the conduct of a modern General, after his retirement from half fought battles and ignominious surrenders, bear the most exact resemblance to that venerable ease, that modest dignity,

dignity, which in former times distinguished the hero in retreat. Far different the views, far brighter the prospects that flatter the pride of our ideal conquerors, and gild the evening of their day. What, tho' the testimony of public applause be wanting to commemorate their services? yet the partiality of friends, the interest of dependants, and the fury of party zealots shall raise a clamour, loud at least, if not universal, vehement, if not sincere,

It was a complaint in the declining days of Athens, that their Generals had combined with the orators to subvert the constitution of their country. Far be it from us to countenance a similar reproach on that illustrious and extraordinary band, the martial politicians of the present age, how much soever their conduct may appear to warrant the imputation; rather let candour attribute the whole system of cabals, of accusations, of inquiries, of prophecies, and of pastoral letters to constituents, to the more innocent object of preserving some remnant of public esteem, or of erecting some new fabric of artificial honour. For tho' the music of genuine fame can no longer sooth their ambition, yet the thunder of party eloquence shall auspiciously aid their revenge, and their brows, tho' not encircled

eled by the laurel of conquest, shall yet be adorned with the crown of martyrdom.

To enumerate fully and describe minutely, the several inferior classes of imaginary martyrs, would perhaps be an endless as well as an irksome task. The disappointment of extravagant prospects, the denial of unreasonable requests, the apprehension of fancied injuries, excite conflicts of a thousand restless passions, too strongly implanted in our nature. And, as on such occasions, we are not always inclined to judge with perfect impartiality, or to trace the disquiet of our minds to it's real and original source, every refusal to promote ambition, to dignify pride, to enrich avarice, to abet injustice, or even to flatter self-conceit, instantly becomes a topic of bitter complaint, and a ground of inveterate enmity.

Such are the characters extolled, such the measures adopted, and such the instruments employed by that party (or rather assemblage of parties) who have distinguished themselves of late years by a furious and unremitting opposition to government; who, by inflammatory speeches, perverse interpretations, and interested cabals, have not much contributed to heal those

those public evils so frequently lamented and industriously exposed.

To distinguish those classes of men, who, tho' adverse to government, cannot be friends to freedom, to detect the arts of hypocrisy, and to expose the pretences of imposture, is surely an undertaking worthy of some approbation, when prompted by truth, and performed with sincerity. If (as we are often told) it is only by an union of the purest intentions, of the wisest councils, of the most active and vigorous measures, that national dignity can now be restored, or national ruin averted, we must scrupulously examine the character of every candidate for power, of every competitor for fame and distinction. And though neither discretion nor decency admit us rashly to pronounce on their several degrees of virtue and ability; yet it requires little consideration to point out some, in whom public confidence ought never to abide; it requires little experience to assure ourselves, that those who most vehemently oppose, are not for that reason alone the fittest to direct the measures of government, ('novandis, quam gerendis rebus, aptiora ingenia illa ignea') nor ought vice to be honoured, malevolence praised, or treachery rewarded, merely because the person adorned with such qualities, employs them in the glorious service of opposition.

To proclaim the errors, to triumph in the failures, to vilify the characters of ministry, have long been the favourite topics of party declamation ; and there never, perhaps, was a time in which so loose a rein was given to the impetuosity of political resentment.—That men who have so little regard for the credit and repose of others, should arrogate to themselves an inviolable sanctity, is a caprice so unaccountably ridiculous, so preposterously unjust, that it must be left to their own explanation ; for should a single error in their conduct be shewn, should the abilities of the meanest, or the integrity of the basest in their phalanx, be called for a moment into question, the sacrilegious attempt shall draw on it's devoted author the harshest epithets that ever yet were combined by rhetorical acrimony. But it is not by any illiberal imputation that disgrace can be affixed to the freedom of just enquiries and remarks : an impartial observer will rather applaud the justice of those who mark the features of political treachery, and develop the intrigues of factious cabal, in whatever party they discern them ; who by an honest endeavour to separate false pretences from real merit, by warning their country against malignity never to be countenanced, and perfidy never to be trusted, have made it the leading object of their views to enhance the value of patriotism, and to exalt the dignity of virtue.

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L E T T E R

TO

. GENERAL BURGOYNE.

L E T T E R
TO
GENERAL BURGOYNE.

SIR,

HAVING in the preceding Essay, offered some general observations on that class of men to which you belong, I am naturally led to a more particular discussion of your case, as not only the most recent, but, perhaps, the most extraordinary that ever has occurred in the history of modern martyrdom. A compassionate respect for misfortune, and a delicacy even towards false honour, would have shielded you from any severity of censure, had your supposed adversaries met with civility or even justice at your hands. But since your ingenuity has been active in misrepresenting their motives, and traducing their characters, you cannot wonder, that your own should be deemed the proper subject for an unreserved, though candid examination :

tion : nor, since you have solicited, nay demanded the public judgment, by a voluntary appeal, can you be justly offended at the freedom of this enquiry. It is, indeed, rendered more peculiarly necessary by your late declaration in Parliament : for you have declined the pursuit of any other mode of vindication, and rested your cause solely on the general opinion of your conduct, and on the efficacy of your printed defence. My object is, therefore, to examine the merits of your dispute with government, ~~more fully~~ and minutely than any writer has yet attempted during the course of this controversy : in the execution of which necessary, though painful, task, I shall studiously avoid all perplexity of argument, or of expression ; the questions being simply these ; What are the real causes of your continuance in England ? and What the motives which impelled Government to order your return to America ? The latter question will necessarily include some observations on the order itself, and on the arguments by which you have attempted to invalidate or pervert it.

On the first part of the subject, it will, I think, be allowed, that your disobedience to the command of your Sovereign must have proceeded from one or other of the three following causes :

causes: the necessity of re-establishing your health, the desire of vindicating your character, or the hope of serving your new political confederates, and promoting the views of opposition. For I can hardly suppose you so lost to the dignity of a man, or the duty of a soldier, as to be actuated by no other inducement, than a love of ease, and an attachment to the luxuries of this country. So unworthy a consideration could on your mind at most have operated only as a secondary motive.

The first of these objects, I mean the re-establishment of health, ought to have been the only rule of your conduct. When, in the terms of humble petition, you first solicited leave of absence from that assembly, who had joined a degrading insult on your "*personal honour*," to the most atrocious violation of public faith, the chief pretence on which your request was urged, and the only one on which it was granted, was, the ill state of your health.* And a short time before your departure from America, you declared to Sir W. Howe, (in his quality of Commander in Chief) a determination of re-
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* "Resolved that Lieut. General Burgoyne, on account of his ill state of health, have leave to embark for England."

turning to your duty, the moment your health should permit you. This was, therefore, the original condition on which you professed, and was allowed, to gain a temporary exemption from the controul of the enemy, and from the service of your country.—I am aware, in this part of the case, of the delicacy due to every man on the subject of his health, and that the *ipse dixit* of even an imaginary invalid outweighs all arguments: so that, notwithstanding every “*appearance*,” if he will not allow himself to have the “*sensation*” of health, or even if he does, (but afterwards retracts it) no conjectures, however probable, no exterior symptoms, however clear, can justify the indignity of presuming him to be in less danger than he imagines, or daring to compliment him on the prospect of his recovery. Yet, I hope, you will pardon my observing, that this malady, which appears chiefly to consist of a kind of horror of an American winter, and a predilection for the Bath waters in Summer, is, of all others, the most unfortunate for an officer on the American staff; and for this plain reason, that the only intervals for his military achievements, are contained in the Spring and Autumn months, which, however, must unfortunately be devoted to the two voyages of going and returning.—I will not, therefore, enquire

quire into any of the peculiarities which seem to attend this complaint ; such as the very agreeable regimen and diet it requires ; for it is possible that some disorders may be of so excentric a nature, as to demand the inversion of every common rule. The toil of parliamentary debate, though prejudicial to all other constitutions, may, perhaps, have refreshed and invigorated your's. But, though I have confessed that this extraordinary distemper is above my comprehension, yet I must beg leave to express my sincere congratulation, that one of it's most remarkable symptoms has so long ceased to exist. That complaint, which required the Bath waters, has not, I presume, troubled you since the Autumn of seventy-eight ; (for I think that was the last time you honoured Bath with your presence) and though your aversion from American service has continued, and even increased since that period, yet it appears by your last letters, that ill health is no longer the pretence by which you attempt to excuse it.

The next consideration is the supposed anxiety to vindicate your character and honour. And, however mistaken the mode adopted in the pursuit of this object, we cannot without some

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partiality, reflect upon the principle which apparently gave rise to it.

Almost immediately after your return to England, it was his Majesty's pleasure that the conduct of the expedition under your command, and the causes of its failure, should be submitted to the judgment of your profession: and in this the will of your sovereign coincided with your own professed desire.

That the purpose of this inquiry was not fulfilled, was owing to difficulties arising from the nature of your situation, and the consequences that any decision on your merits, might produce to the troops of the Convention.—The professional and only proper examination being thus necessarily delayed, not by any ministerial management, not by any secret measure of state, but by the wise and humane caution of the most experienced and respectable officers, it must have appeared neither wholly respectful to the opinion of your military superiors, nor perfectly consistent with the decency becoming your situation, to obtrude upon parliament a detail little adapted to the proceedings, and almost foreign to the objects of a legislative assembly. But since your
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restless impatience for an immediate, tho' an incomplete justification, or a more restless desire of throwing the blame of your failure on ministers, urged you to such an ineffectual inquiry; it became a measure of propriety, as well as of compassion, in those you had endeavoured to criminate and provoke, not to concur in an examination already declared dangerous, by persons the best qualified to judge of it's tendency. You were therefore permitted to proceed throughout the whole enquiry in stating your own case, examining your own witnesses, and drawing your own conclusions, without the slightest accusation, contradiction, or controversy.

On the conduct of this curious parliamentary trial, it is not my business to remark; nor will I examine what degree of weight, the opinion of a few officers, attached to their General by gratitude or friendship, can be supposed to have in the unbiaſſed judgment of his profession and country. My only purpose is to shew, that the object of canvassing, (or if you please of justifying) your conduct, had long since been attained; as far at least as it can be attained during your present situation; and consequently that we are not to ascribe your disobedience of his Majesty's

Majesty's order, to a pretence which, however specious it might at first have appeared, must be allowed to have entirely ceased long before that period, when you so confidently relied on it.

Since therefore it cannot be pretended that the true motive of your continuance in England arose from anxiety concerning your health, or zeal in the defence of your character, I am unavoidably led to consider the only remaining cause; which, tho' at first it may appear but little to your credit, will give us occasion not only to observe some curious manœuvres of modern politics, but to do justice to marks of benevolence and charity in your disposition, not hitherto taken notice of by your warmest admirers. Not that I feel any great pleasure in recurring to the view of that strange phænomenon, a modern military politician; who accepts or refuses a command, attacks or retires from the enemy, courts the delights of indolence, or rushes on the precipice of destruction, merely for the acquisition of political importance, or the gratification of political resentment: nor is it my purpose to inquire what rank you may be entitled to hold in this respectable phalanx. I wou'd only (with
great

great deference) suggest, that vehement clamours and pompous harangues are not the only convincing proofs of merit, and that it may still be doubted, whether recrimination is in all cases the most unexceptionable mode of defence: not to mention, that the conduct of one, who at first, strenuously supports and zealously defends the views and measures of government, and afterwards furiously attacks the same ministers, reprobates the same measures, and declares his determination in every future occurrence, and on every possible event to accuse and oppose them, is never wholly exempt from some kind of suspicion. But as this part of the subject can produce no very agreeable or flattering reflexions, allow me to turn from thence to a more pleasing object, and to admire a magnanimity and moderation in one instance of your late conduct, so inconsistent with the general idea of your character, and so much the reverse of your American proclamation. It will be obvious that I allude to your union with the parties in opposition; for surely it must require a more than heroic generosity, not only to forgive, but to associate with men who have accused us of the blackest cruelties, and assail'd us with the severest ridicule. Such was the conduct of opposition towards you, whilst your arms were crown'd

crown'd with success. Every news-paper was filled with accounts of ravages and massacres committed by your order; every party declaimed expressed, in whining lamentations or blustering menaces, his abhorrence of the inhuman plan, and more inhuman conduct of the northern expedition. The general employed in such a measure was invariably represented as a fit instrument to execute any the most savage scheme which the vindictive spirit imputed to ministers might project: and, (what to *you* must have been infinitely more mortifying) even his judgment was called in question, his talents were depreciated, and his language burlesqued.

Such was the treatment you once received from your present political confederates; who certainly at that time had some other views than to "*save their country*:"* since they made it a principal object to libel and traduce one of its military servants, merely because his efforts had been successful, and because the obloquy thrown upon him, would draw a still heavier imputation on the civil officers of government. On what *terms* such an union was made, or what *participation*† is intended to result from it, neither my subject

* General Burgoyne's letter, p. 3.

† The same letter page 3.

subject nor my inclination lead me to enquire. The common sense of mankind will perhaps deem it unnatural, the spirit of your profession may consider it somewhat unworthy your former character, and every observer of political transactions may find it difficult to persuade himself, that it could have been produced wholly by disinterested views and laudable pursuits: but it is enough for my purpose that the motive (whatever it be) of this new alliance is sufficiently powerful to have counteracted the duty of military obedience: and since your conduct imports *this* to have been the real cause of your continuance in England, I shall leave to some of your more ingenious advocates the difficult task of reconciling it to consistency, and to sincere patriotism.

Having thus endeavoured to discover what is the source of your inclination, it may not be improper to enquire what ought to have been the suggestion of your duty.

It will scarcely, I think, be maintained, that the troops of the Saratoga Convention can in any light be considered as mere prisoners of war. By the stipulations of that treaty, the enjoyment of several independent rights, and the exercise
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of several military functions was expressly reserved to them; and the officers of every rank retained in it's full extent, the power of preserving regularity, of enforcing discipline, and of rewarding fidelity; but a far stronger argument, a far more interesting motive arises from the peculiar nature of their situation; the fretfulness of disappointed hopes; the pressure of accumulated misfortunes, the allurements of artful temptations, might prove highly dangerous to the virtue of men, whose fortitude does not usually arise from principle, whose patience is seldom the result of philosophy. To counterpoise the weight, and frustrate the operation of such motives, no circumstance, perhaps, could be so efficacious, as the presence and vigilance of those superior officers, whose example they were accustomed to follow, and whose authority they had been taught to revere. The Congress would, no doubt, most cheerfully acquiesce in granting a parole to any officer of rank, whose situation afforded a reason, or whose invention could furnish a pretence for requesting it. But fortunately for the fidelity of these troops, fortunately for the interest of this country, it has not yet become the fashion with every General to desert his fellow soldiers in the hour of distress. The conduct of one distinguished officer in the same army, appears to have been guided

guided by very different principles of honour; by far nobler ideas of duty. You will immediately perceive me to mean General Phillips; who appears to have thought it highly necessary, that the troops should still have an officer of rank to command them; for tho' he had voluntarily embarked in the expedition, and did not properly belong to your army, † yet he generously waved his prior right to enlargement; and, leaving it to others to supplicate a favour, from insolent and perfidious rebels, has cheerfully shared the sufferings of his gallant companions, and by the diligence of his attention, by the influence of his example, has maintained (even in captivity,) a regularity and discipline, that do honour to the British service.

Should it from these circumstances appear, that the presence of their superior officers is essential to the welfare, and even existence, of this army, every argument above stated, will apply to your situation, with additional force. To acquiesce, tho' tacitly, in the shameless violation of your own treaty, (by accepting your liberty on different conditions, and giving the parole of an absolute prisoner of war) would ap-

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† General Burgoyne's letter to Sir W. Howe, April 9th, 1777

pear to most men hardly consistent with the wisdom of a politician or the spirit of an officer; but to desert your fellow soldiers in calamity, which your measures had produced, to exempt yourself wholly from misfortunes, of which you ought in justice, to have born the principal share, will meet with approbation from none, but your new advocates in parliament.

Such, we may presume, were the sentiments, such the motives of government in issuing the order you first received to return to your duty, yet so great was their attention to the re-establishment of your health, (for which object alone, the parole had been granted) that, without waiting for any application on your part, they voluntarily made their order conditional, and set no other bounds to the time allotted for your stay, than the accomplishment of your avowed intention.

It may seem rather inconsistent that you, who boldly question the authority of such an order, should yet bestow so much toil and ingenuity to elude it's purpose, and pervert it's construction.

Your objection to it's authority, must either be founded on some new idea of the character and situation of a prisoner on parole, or on some
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inference supposed to arise from the report of that board of general officers, who had taken your case into consideration.

The acknowledged laws of war, the practice of all civilized nations, and indeed the very terms of a parole, seem repugnant to the idea, that a prisoner released on those terms, is exempt from any civil or military subordination in his own country. It appears whimsical enough to suppose that a restraint from bearing arms against a particular enemy, and a promise to return on their requisition, should at once dissolve every tie of allegiance to our sovereign and of obedience to our superior officers; but your own declarations render a further pursuit of this argument needless: for you more than once assert, that the board of Generals were mistaken in reporting (as you suppose them to have reported) that you were exempt from all military subordination. The same assertion would likewise preclude you from objecting to the validity of your sovereign's order on the ground of any thing contained in the report; but as you have endeavoured (with some art) to involve government in a similar contradiction, by representing their conduct in issuing such an order, as directly repugnant to their

their former measure of postponing the enquiry ; it may not be immaterial to examine, whether the board of Generals have given any opinion, that your situation exempts you from the duty of military obedience ; and whether (even admitting this to have been their idea) his Majesty, in superseding the inquiry, must, of course, be supposed to have ratified such an opinion, and to have acted solely in compliance with that part of the report.

When, almost immediately after your return to England, your Sovereign, desirous as yourself of an inquiry into the true source of your misfortune, took the necessary measures for that purpose ; he referred the consideration of this important subject to men, whose professional education, experience and ability, rendered them the most qualified to decide on it. The board appointed for this inquiry, " after due deliberation," (as they expressed it) submitted to his Majesty's consideration, " Whether Lieutenant General Burgoyne, being at present in Great Britain, by the permission of the Congress, and under the parole herein before expressed, is subject to any military jurisdiction, process, or examination, and should any proceeding be had by us, which may in any wise tend, however remotely, to restrain or effect his person, until such

such parole is satisfied, whether the same may not operate to the prejudice of your Majesty's service, and possibly have very serious consequences, respecting the troops included in the convention made at Saratoga."

The above report consists of two parts: the first suggests a doubt, whether General Burgoyne, (so situated) is subject to any military jurisdiction, process, or examination. Now, let us for a moment suppose, that this cautious doubt had been in effect a positive opinion; it is surely no absurdity to say, that an officer, bearing a commission, and accepting emoluments from the Crown, is bound to obey his Sovereign, even by the tie of military duty, though his peculiar situation may, for the present, exempt him from the jurisdiction of a court martial: as in some civil cases, the temporary circumstances which may retard a trial, do not of themselves imply an impossibility of subsequent offence.

From this consideration it will appear, that the doubt suggested by the Generals in the first part of their report, does not necessarily absolve you from all military controul; and that the inference you would draw from thence, is more ingenious than just.

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The second part of this report, expresses a serious and provident apprehension of prejudice to the service, and danger to the troops, of the convention, by any proceeding that may tend to affect or restrain your person.

This suggestion (considered by itself) contains a very powerful argument, a most interesting motive for suspending the proposed inquiry; and his Majesty (as appears from his second warrant) was determined by a view of *these* consequences, and by a tender regard for the troops of the convention, to supersede it.—We are not surely to conclude this step a confirmation of any opinion that frees you from obedience (if indeed such an opinion was meant to be suggested) since it is so evident that another, and far more important reason, was not only represented by the Generals, but expressly avowed by the sovereign himself.

The foregoing remarks will perhaps convince every impartial inquirer, that the order injoining your return to America, is neither illegal in itself, nor repugnant to the former conduct of government; and, if to an officer, in circumstances, obedience to his superiors is still a duty in all points not inconsistent with his promise to
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the enemy, how much more binding is an order which directly coincides with that promise, and expressly enforces it's observance?

Your attempt to alter the nature and elude the consequence of this order, is more boldly, and somewhat more speciously, urged. No one, I believe, has asserted that the terms of it are not *conditional*; tho' many reasonable men are not yet perfectly satisfied, that the condition depended solely upon your will and pleasure. Lord Barrington's letter of June 5th, 1778, was expressed in the following terms: "the King, judging your presence material to the troops detained prisoners in New England, under the convention of Saratoga; and finding in a letter of your's to Sir William Howe, dated April 9th, 1778, "that you trust a short time at Bath will enable you to return to America," his Majesty is pleased to order that you shall repair to Boston as soon as you have tried the Bath waters in the manner you propose."

This last letter, in my apprehension, contains a positive order, tho' to take effect at a future period, limited almost precisely by the order itself.

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The next letter of Lord Barrington gives indeed, somewhat a greater latitude to the indulgence granted in the former, and instead of merely allowing you to try the Bath waters, makes the general state of your health the guide by which you are to know his Majesty's pleasure, respecting your return to America. This is therefore the condition: a condition depending on future circumstances, and the express terms of which are calculated to render the order positive, on the accomplishment of a certain event. When, therefore, you alledge, that "you have never received a positive order," if you only mean an order positive *at the time you received it*, such an excuse will rather be deemed an equivocation, than a defence; if on the other hand, you maintain, that an order, conditional and eventual at the time, can never be rendered positive by the accomplishment of that condition, and the concurrence of those circumstances on which it depends, what understanding so shallow, but will instantly perceive the absurdity?—Should a doctrine like this extend itself to the common transactions of life, the difficulties, inconveniences, and contradictions, it must give rise to, would exhibit an almost universal scene of petty vexations and ridiculous distress. It is not, therefore, too much to conclude, that a conditional order is not only nugatory, but unmeaning,
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even puerile, unless the contingency to which it refers, is alone sufficient to render it effectual.

The only remaining question is, whether this order necessarily implies, that the accomplishment of that event, which was to render it positive, could only be determined by your own discretion, and announced by your own declaration; or whether there might not be circumstances sufficiently strong, and appearances sufficiently clear, to warrant the inference, which was drawn from your conduct, and to justify the censure which was past on it.—It may not, however, be immaterial to premise, that a decision of this point in your favour, whatever reproach it might throw on your supposed adversaries, would scarcely enable you to justify yourself. For, should nothing less than your own admission be deemed a sufficient proof, that the order, at first conditional, was become positive and peremptory; yet even such an admission is contained in your letter (of October the 9th) to the secretary at war: where the pretence of ill health is evidently relinquished, and another pretence disrespectful to your sovereign, as well as to your profession, is set forth in studied periods, and exaggerated with bitter invectives.

Yet tho', by the letter alluded to, your only exculpation is given up, and the charge of dis-

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obedience

obedience fully established, curiosity may still prompt us to inquire, whether the order of your sovereign was indeed of a nature so wonderfully complaisant and convenient, that it rested solely and perpetually on your inclination, either to respect and obey, or to disregard and despise it. If because so much indulgence was granted, and so much delicacy shewn, if because your own honour and discretion were in some degree relied on, it must from thence be concluded that no length of time, no concurrence of circumstances, no conduct of your own, could justify your presuming such a state of health as the order eventually pointed out; such an order is not only conditional, and even (as you term it) optional, but in plain English, it is no order at all, and must be considered as a modest suggestion, an humble request from the sovereign to his subject, from the head of all our armies to one of his subordinate officers; the absurdity of such an idea is, in my apprehension, too extravagant even for ridicule, the ignorance it would manifest is almost beneath contempt.

If, therefore, your sovereign, or those by whose advice he acted, may be allowed to have had some meaning in issuing the order you received, they must be supposed to mean, not only that you should consider the order as positive the moment
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your health could be deemed in a tolerable state of safety, but that in some events disobedience might be inferred from other proofs than your own declaration.

Let us then for a moment set aside your letter (of the 9th of October last) in which the presence of ill health is deserted; and suppose that some other officer, after having received such an order as was conveyed to you by the letters from Lord Barrington, should continue in England sixteen months after that period, should omit during the last twelve months to use the principal remedy prescribed for his complaint, and to fulfil the principal object of his return from service; should (without prejudice to his health) encounter the fatigues of business; and, in short, repeatedly and continually manifest a determination to disobey his sovereign's order, tho' the contingency on which it was to become positive, had evidently taken place; should he at length, after the expiration of sixteen months, receive a third letter, censuring his former neglect and enforcing future obedience; I would have left it to your own judgment at any former period, whether an officer so circumstanced, would have any right to impute malevolence, or complain of oppression.

On the contrary, the continued forbearance, the equitable indulgence, and even in the
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last instance, the evident intention of rather admonishing you to return to your duty, than of punishing your disobedience, cannot fail to convince the world, that no political resentments (however well founded) are suffered to interfere in the regulation of military affairs. It must as forcibly strike every man, unbiassed by party prejudices, that, tho' the dignity of the Crown, and the welfare of the service required some censure should be passed on a conduct tending to the subversion of both, yet even this apparent severity was tempered with benevolence and moderation.

I have now, Sir, performed my promise of examining the several supposed motives of your stay in England, of stating the probable inducements with Government, to order your return to America, of discussing the validity and import of that order, and canvassing the pretences set up against it. And now I should with pleasure take my leave of a disagreeable subject, but that there appears something so very uncommon in almost every part of your conduct, from the convention of Saratoga to the present hour, that curiosity tempts me to take a cursory view of it.

I will begin with your policy in framing the convention. And here the first object that attracts our notice, is your very singular boast, of having

ving *dictated* the terms. On what reasonable ground a General, who has surrendered his army into the power of an enemy, can boast of having dictated the terms of such a surrender, would perhaps puzzle any other man of plain understanding to discover: but I, who have long had the happiness of being familiar with your stile, and carefully studied every turn of your composition, presume you to mean, that General Gates, provided he could incapacitate your troops from serving in America, was disposed to grant you every other indulgence consistent with his acknowledged superiority. And indeed his so readily agreeing to the terms you proposed (or, as you are pleased to call it, *dictated*) is no slight evidence of such a disposition. It is not probable, therefore, that he would have opposed your wishes, had you (instead of leaving it to his choice) assigned Quebec as the place of embarkation, by which means you might immediately have conducted the whole army out of the provinces in rebellion, with the same security as your Canadian followers were permitted by this very treaty to return directly to that colony.

You could not surely doubt, whether it was more prudent to trust the performance of such a treaty to your own honour and that of your country, than to the faith of men whom you had stigmatized as rebels and traitors: You could

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not be ignorant that the Congress, on a former and nearly similar occasion, * had shewn their disregard of public faith, and their contempt of the law of nations; and that, independently of future occurrences, it was even then manifestly their interest rather to detain the troops in captivity, than to suffer them to return for the defence of this kingdom. But though a confidence so indiscreetly reposed, may be palliated by our respect for even romantic honour, yet we cannot but regret a measure, the mysterious policy of which proved a foundation of endless disputes, and furnished a thousand pretences for perfidy.

The situation in which this treaty had placed you, was so novel in it's kind, and even the continuance of your present immunities, as well as the accomplishment of your future hopes, so precarious, so entirely dependent on the pleasure of the enemy, as to require every possible attention to the dictates of prudence, of candour, and of moderation. Yet you sought almost immediately for causes of dispute, with those into whose power you had delivered yourself and your army, and on whose faith alone you must of necessity depend for your enlargement. You accused them
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* The convention made by General Arnold with Captain Foster, for an exchange of prisoners taken at the Cedars, and evaded by Congress.

of a direct and willful breach of the convention; merely because you had not been accommodated quite so genteely and conveniently during your journey as you might wish and expect. This charge, so captious, and so inoffensive, as it certainly afforded the chief pretence, so it probably suggested the first idea of a real and essential violation. Your injudicious, and (in some instances) mistaken disputes with General Heath, were somewhat of a similar nature, though possibly not quite so pernicious in their consequences.

On the propriety of your quitting the convention troops under such circumstances, sufficient has been said already. Neither is it necessary to expatiate at large on the degrading humiliation of soliciting a favour of the Congress, from whom you had just received the severest insult; nor on the indiscretion of giving such a parole as might be construed into an admission that you, and consequently your army, might be lawfully considered as absolute prisoners of war.

Let me now attend your return to this country, in which your exploits have been as numerous and perhaps even more extraordinary than your American operations.

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The political system adopted immediately on your arrival, does not indeed owe it's origin to the fertility of your own invention. On the first account of your defeat and surrender, the consternation and grief universally excited by such an opprobrious calamity, was deemed by opposition the most favourable occasion to introduce a new charge against their adversaries; and the Secretary for the American department was chosen as the principal object of this partial, anticipated, and unsupported censure. Thus was the track of your future conduct previously prepared, and industriously delineated. But whilst every art of political management was exerted, and every sinew strained to procure a fresh instrument for the purposes of party; it was, I believe, the wish of every friend sincerely zealous for your honour, and really attached to your welfare, that you might spurn with contempt such unworthy, such ineffectual means of justification. Unhappily the allurements of party connexions was too strong to be counteracted by the influence of candour and discretion. The accusation of ministers appeared to you the necessary engine of your own defence: and though it was not easy to shew the defect and error of a plan, assented to, and acted upon by yourself; though it could not be denied, that you were furnished with every requisite

requisite for that important service ; yet the want of essential facts, and well grounded arguments, was at least apparently supplied by a profusion of declamatory charges, and peevish complaints.

Thus involved in party measures, and perverted by party zeal, you appear even to this moment unconscious that the proof of all your imputations on Ministers, would not have necessarily implied a blameless, and still less a meritorious conduct in yourself ; for, as schemes the best concerted, and most judiciously executed, may fail of their effect, by the intervention of some casual obstruction, or some unavoidable calamity ; so on the contrary, a measure the most improvident and hazardous in itself, may in some cases have been frustrated, not only by error in the design, but misconduct in the execution. The supposition, therefore, in your late pamphlet, that his Majesty's order for your return to America was advised by Ministers who were parties in a dispute with you, proves as ill grounded as it was illiberal ; that they never considered themselves as such, is clear, from their conduct during the whole of your parliamentary inquiry.

Yet even the extravagance of this last supposition will less surprize us, when compared to

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your very original and entertaining idea of imputations on the conduct of your troops.—Had you at any time condescended to inform us from whom these pretended imputations originated, by whom they were propagated, or in what they consist, we might indeed have inquired whether this was the proper mode to be employed in defence of your troops; we might have doubted how far your conduct had been really actuated by zeal for their honour, but we should at least have allowed you the merit of some art in connecting the cause of your army with your own. But since the aspersions you mention were perhaps never heard or dreamt of by any man living but yourself; since the convention troops (especially the British) have invariably received the applause due to their intrepidity, and perseverance; we must of necessity ascribe all that rap-sody about “*innocent men, base and barbarous aspersions, malignity and power,*” to the vanity of exhibiting an image of creative fancy, or displaying a period of tuneful composition.

It is unnecessary here to repeat the remarks on your disobedience of his Majesty's order, or on the pretences by which that disobedience is attempted to be justified. They may all be comprized in these three propositions: that the convention troops are in the state of absolute prisoners

soners of war; that his Majesty superseded the court of inquiry on the ground that you were not amenable to any military jurisdiction; and that the order itself was so entirely optional, that from it's nature it could never be disobeyed. All which pretences will, (I think) have no other effect than to prove a happy ingenuity in argument, and to exemplify the powers of a heated imagination.

To answer the general charges, and hackny'd imputations on government, is inapplicable to the present subject; as little is it necessary to take any notice of the petty injuries, and visionary wrongs, complained of in the persons of your friends. As to your own, I have dwelt on them long enough to be heartily weary of the discussion. And perhaps, as they were almost forgotten by the world, your vanity will thank me for having revived them, though not entirely in the most flattering manner. For what cannot be effected by the vanity of that man, who, because he was once of sufficient importance to almost ruin the state, thinks it can now be a measure of state to compass his destruction?

At length, sir, I take my leave of a subject, by no means agreeable in the discussion. I will freely own the first motive that led me to this inquiry, was a desire of vindicating characters very
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powerfully, or at least speciously assailed. Every step I have proceeded in it, every view in which I have considered it, has uniformly tended to confirm me in this opinion, that you are not that oppressed officer, not that unprejudiced politician, which your speeches and publications have so industriously proclaimed you—that whatever misfortunes you may have suffered, whatever losses you may have endured, have been the consequence of your own acts, or the effects of your own solicitation.—Had the case appeared otherwise to my mind, no consideration could ever have induced me to throw the least imputation on your conduct, or insinuate the slightest doubt of your sincerity.—I will only add, that it is happy for yourself, if your “*ambition is dead*.”—It will perhaps be no less happy for this country, when your present political “*occupation is gone*.” Let me hope, that, in the *preservation* of your private *friendships*, you may prove less capricious than in your public connexions; and that the boasted *tranquillity* of your mind, may in future arise from no other sources, than the sincerity of candour, and the consciousness of truth.

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